REMARKS

In the instant application, claims 1-15 are pending and have been made the subject of a Restriction Requirement.

I. Restriction Requirement Under 35 U.S.C. § 121

The Examiner asserts that Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-8 and 10, in part, drawn to compounds/compositions of formula (I), wherein the variables Q, R^1, R^2, R^3, R^8, R^{11}, R^{12}, R^{13}, and G independently do not represent heteroaryl or heterocyclyl thereof; the variables Q, R^1, R^2, R^3, R^8, R^{11}, R^{12}, R^{13}, and G independently are not substituted with heteroaryl or heterocyclyl thereof; the variable D represents pyridyl thereof; the variable R^0 represents isoxazolyl substituted with thienyl thereof; the variable V represents piperidine thereof; the heteroaryl or heterocyclyl of the variable M independently is selected from pyridine, imidazole, isothiazole, oxazole, pyrrolidine, tetrazole, thiazole, *or* piperidine thereof; the variables R^1 and R^3 together with the atom to which they are attached do not form a cyclic group thereof; the variables R^1-NR^2-V together do not form a cyclic group thereof; the variables R^{11} and R^{12} together with the atom to which they are attached do not form a heterocyclic ring thereof, classified in class 5141/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose.

II. Claims 1-8 and 10, in part, drawn to compounds/compositions of formula (I), wherein the variables Q, R^1, R^2, R^3, R^8, R^{11}, R^{12}, R^{13}, and G independently do not represent heteroaryl or heterocyclyl thereof; the variables Q, R^1, R^2, R^3, R^8, R^{11}, R^{12}, R^{13}, and G independently are not substituted with heteroaryl or heterocyclyl thereof; the variable D represents pyridyl thereof; the variable R^0 represents isoxazolyl substituted with thienyl thereof; the variable V represents piperidine thereof; the heteroaryl or heterocyclyl of the variable M independently is selected from ketomorpholine, ketopiperazine, morpholine, piperazine, or thiomorpholine thereof.; the variables R^1 and R^3 together with the atom to which they are attached do not form a cyclic group thereof; the variables R^1-N-R^2-V together do not form a cyclic group thereof; the variables R^{11} and R^{12} together with the atom to which they are attached do not form a heterocyclic ring thereof, classified in class 514/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose.

III. Claims 1-8 and 10, in part, drawn to compounds/compositions of formula (I), containing compounds not encompassed in Groups I-II, classified in class 514/540/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group is subject to further restriction if it is elected.

IV. Claim 9, drawn to processes of making, classified in class 540/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group is subject to further restriction if it is elected.

V. Claims 11-15, drawn to method of use (i.e., treating acute myocardial infarction), classified in class 514/540/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group is subject to further restriction if it is elected.

See the Office Action, pages 2-4.

Applicants traverse the Examiner's Restriction Requirement and request reconsideration.

First, Applicants submit that the Examiner's Restriction Requirement between Groups I-III is improper. MPEP § 816 states that "[t]he particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given." (Emphasis added).

In the present case, the Examiner has failed to provide with any particular reasons whatsoever as to why claims 1-8 and 10 are divided in Groups I-III as defined in the Office Action. For example, the only difference between Groups I and II is the definition of variable M. The Examiner defines variable M in Group I being several specific heteroaryls (pyridine, imidazole, isothiazole, oxazole, pyrrolidine, tetrazole and thiazole) and a specific saturated heterocyclyl (piperidine), and in Group II being several specific saturated heterocyclyls (ketomorpholine, ketopiperazine, morpholine, piperazine or thiomorpholine). The Examiner does not explain in any way why compounds bearing M as defined in Group I versus Group II should belong to separate groups. In addition, the Examiner defines Groups III containing compounds not encompassed in Groups I-II, i.e., the residual subject matter of claims 1-8 and 10. The Examiner, however, does not offer any explanation why compounds encompassed in Group III should all belong to the same group and should be divided from the subject matter of Groups I and II.

Furthermore, Groups I-III are not designated to complete separate classifications. In fact, they have three common classifications, 514, 546 and 548, except that Group II is classified in on additional class 544, and Group III is classified in two additional classes, 544 and 548. The Examiner has failed to explain why Group I, and the subject matter of Groups II and III that is classified in the same classes as Group I, should be divided into three separate groups. Likewise, the Examiner has failed to explain why Group II, and the subject matter of Group III that is classified in the same classes as Group II, should be divided into two separate groups.

Second, the Examiner's Restriction Requirement between Groups I-III and Groups IV and V is improper. For a Restriction Requirement to be proper the MPEP §803 states "there must be a serious burden on the examiner if restriction is required... For purpose of the initial requirement, a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art or a different field of search..." Applicants submit that Groups I-V do not impose an undue search burden on the Examiner. Specifically, a search for the claimed compounds of Groups I-III is bound to reveal information concerning their preparation and use. Accordingly, performing the search covering the compounds, their preparation and the method of their use would not be a serious burden on the Examiner.

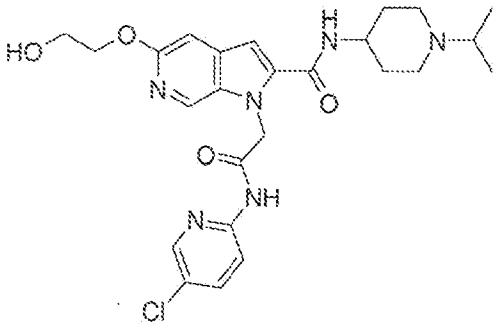
Thus, Applicants submit that the Examiner has failed to provide sufficient reasons in support of a restriction between the inventions of Groups I-V. Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement between the claims encompassed by these groups.

II. Provisional Election

To comply with the Examiner's Restriction Requirement, Applicants provisionally elect, with traverse, Group III, claims 1-8 and 10, in part, drawn to compounds/compositions of formula (I), containing compounds not encompassed in Groups I-II. Claims 108 and 10 read on the elected Group III.

III. Election of Species

To comply with the Examiner's Election of Species Requirement, Applicants provisionally elect the species of the compound of Example 13, 1-[(5-chloro-pyridin-2-ylcarbamoyl)-methyl]-5-(2-hydroxy-ethoxy)-1H-pyrrolo[2,3- c]pyridine-2-carboxylic acid (1-isopropyl-piperidin-4-yl)-amide, having the following chemical structure:



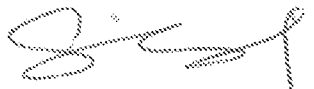
Applicants submit that once the compounds of the present invention are found to be novel, then the other Groups defined by the Examiner where appropriate that would be eligible for rejoinder, pursuant to linking claim practice, should be rejoined.

Applicants also affirm their right to file one or more divisional applications with respect to any other non-elected subject matter.

IV. Conclusion

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. **18-1982** in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,



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